

EXHIBIT H



Department Procedure

PROCEDURE TITLE

PROCEDURE NUMBER

REVISION

Removal and Disposition of Weapons --

Domestic Incidents/Threats to Public Safety

OPS 10023

2

POLICY

The policy of the Police Department is to afford the public the greatest protection available against threats of violence. In furtherance of this goal, firearms, rifles, and shotguns are removed, when warranted, from persons involved in domestic incidents or when such weapons pose a threat to the public safety.

PURPOSE

To establish procedures for the following:

1. removing firearms, rifles, and shotguns, when necessary, from the parties involved in a domestic incident,
2. removing firearms, rifles, and shotguns, when such weapons create a threat of violence or threat to the public safety,
3. returning, retaining or destroying the firearms, rifles, and shotguns after completion of an investigation or review.

DEFINITIONS

Federal Gun Control Act: A federal law in the United States that broadly regulates the firearms industry. It also prohibits firearms ownership by certain individuals thought to pose a threat to the public safety. 18 U.S.C. §922(d) states:

It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person--

- (1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) is a fugitive from justice;
- (3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4) has been adjudicated as a mental defective or has been committed to any mental institution;
- (5) who, being an alien--
 - (A) is illegally or unlawfully in the United States; or
 - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
- (6) [who] has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that--
 - (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
 - (B) (i) includes a finding that such person represents a

ISSUING AUTHORITY

SIGNATURE

EFFECTIVE DATE

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Commissioner

Thomas V. Dale

05/11/2012

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	<p>credible threat to the physical safety of such intimate partner or child; or</p> <p>(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or</p> <p>(9) has been convicted in any court of a misdemeanor crime of domestic violence.</p>
DEFINITIONS	Firearms: [See Glossary]
SCOPE	All Members of the Force.
SOURCES	<p>18 USC §922. Federal Gun Control Act.</p> <p>NYS CPL §265. (Firearms and Other Dangerous Weapons) §400. (License to Carry, Possess, Repair and Dispose of Firearms)</p>
RULES	No new rules within this procedure.
REPLACES	OPS 10023 Revision 1, dated 08/05/2011.
PROCEDURE	A. Removal of Firearms, Rifles and Shotguns
Police Officer	<ol style="list-style-type: none"> <i>Confiscates</i> illegally possessed firearms, rifles, and shotguns <i>and</i> <ol style="list-style-type: none"> if present, <i>arrests</i> the offender, [See OPS 2115] <i>processes</i> the evidence. <i>Confiscates</i> pistol licenses and licensed firearms when the licensee is: <ol style="list-style-type: none"> arrested, the subject of an order of protection, involved in physical violence or the threat of violence. <p>Note: A pistol license is a privilege. Any licensed pistol holder who refuses to surrender his pistol license and/or firearm(s) upon lawful request must be reported to the licensing agency.</p> <i>Confiscates</i> legally possessed firearms, rifles and shotguns when such firearms, rifles and shotguns create a threat of violence or threat to the public safety. <i>Accepts</i> legally possessed firearms, rifles, and shotguns that are voluntarily surrendered by persons. <i>Renders</i> firearms, rifles, and shotguns safe. <i>Prepares</i> PDCN Form 41, Property Receipt, <i>and</i> <ol style="list-style-type: none"> <i>gives</i> a copy to the owner, <i>forwards</i> a copy to the Precinct Domestic Incident Liaison Officer. <i>Invoices</i> the confiscated property.
	B. Licensed Firearms Investigation
RB Pistol License Section Investigator	<ol style="list-style-type: none"> <i>Conducts</i> a pistol license incident investigation and <i>prepares</i> recommendations regarding the following: <ol style="list-style-type: none"> disposition of the licensed firearms,

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	<ul style="list-style-type: none"> b. reinstatement of the pistol license, c. suspension or revocation of the pistol license.
RB Pistol License Section Investigator	2. <i>Reports</i> the results of the investigation to a Records Bureau (RB) Pistol License Section Supervisor and <i>recommends</i> actions to be taken.
RB Pistol License Section Supervisor	<ul style="list-style-type: none"> 3. <i>Reviews</i> the investigator's report and recommendations. 4. <i>Forwards</i> a copy of the investigator's report and recommendations to the Precinct Domestic Incident Liaison Officer of the precinct of occurrence.
Precinct Domestic Incident Liaison Officer	<ul style="list-style-type: none"> 5. <i>Reviews</i> the investigator's report and recommendations. 6. <i>Confers</i> with a Pistol License Section Supervisor regarding the recommendations.
RB Pistol License Section Supervisor	7. <i>Prepares</i> and <i>forwards</i> a narrative report [See Glossary] to the Chief of Department detailing the results of the investigation and recommendations.
Chief of the Department	8. <i>Reviews</i> the narrative report and the recommendations and <i>notifies</i> the Records Bureau Commanding Officer of his decision.
Records Bureau Commanding Officer	9. <i>Follows</i> the direction of the Chief of Department.
RB Pistol License Section Investigator	<ul style="list-style-type: none"> 10. <i>Notifies</i> the Precinct Domestic Incident Liaison Officer whenever firearms are to be returned, and <ul style="list-style-type: none"> a. if previously confiscated rifles and shotguns are still being held; <ul style="list-style-type: none"> (1) <i>notifies</i> the Precinct Domestic Incident Liaison Officer that these rifles and shotguns can be released, (2) <i>includes</i> any rifles and shotguns along with licensed firearms when preparing PDCN Form 83, Property Disposition Form, (3) <i>forwards</i> internal correspondence regarding reinstatement of pistol license, to the Precinct Domestic Incident Liaison Officer.
Precinct Domestic Incident Liaison Officer	<p>C. Rifles and Shotguns Investigation</p> <ul style="list-style-type: none"> 1. <i>Reviews</i> all incidents involving confiscation of rifles and shotguns as soon as possible. 2. <i>Determines</i> if the confiscation of rifles and shotguns was appropriate. 3. <i>Ensures</i> the immediate return of confiscated rifles and shotguns in the following situations: <ul style="list-style-type: none"> a. confiscation was inappropriate, b. new information is learned which makes the confiscation inappropriate. 4. <i>Initiates</i> an administrative review to determine if a legal impediment exists <i>not</i> to return confiscated rifles and shotguns.

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Precinct Domestic
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Officer

5. *Mails* the following forms, return receipt requested, to the owner of the rifles and shotguns:
 - a. PDCN Form 173, Long Gun Review Record, *and*
 - b. Long Gun cover letter.
6. *Forwards* the following *mandatory* information to the Desk Personnel and *directs* them to request a National Crime Information Computer (NCIC) inquiry, using the QICS format, to determine if there is any information that would prohibit a return of firearms, rifles, and shotguns under the Federal Gun Control Act [See Definition]:
 - a. name,
 - b. sex,
 - c. race,
 - d. date of birth,
 - e. state of residence.

Note: A social security number *is not* mandatory but should also be forwarded, if available.

Desk Personnel

7. *Completes* the QICS format on the NYSPIN computer and *transmits* to the Teletype Section.

PCO Teletype
Section

8. *Enters* the QICS into NYSPIN and *transmits* to the NYSP.
9. *Receives* reply from NYSPIN and *performs* a Criminal History Check in the eJusticeNY if there is any indication of criminal history.

Desk Personnel

10. *Faxes* the results to the requesting Desk Personnel.
11. *Forwards* the results to the Precinct Domestic Incident Liaison Officer.

Precinct Domestic
Incident Liaison
Officer

12. *Determines* if any of the following conditions exist:
 - a. the owner is prohibited from possessing rifles or shotguns under the Federal Gun Control Act,
 - b. the owner has a relevant pending court disposition,
 - c. the owner is a subject of an order of protection,
 - d. the owner has a relevant Nassau County arrest history,
 - e. domestic incidents have occurred since the time of the confiscation or voluntary surrender,
 - f. other extenuating circumstances which indicate that rifles and shotguns should not be returned.
13. *Interviews* the investigating detective, if the Detective Division was involved in the initial incident.
14. *Interviews* the victim of a domestic incident, outside the presence of the offender, to determine the following:
 - a. current status of the relationship,
 - b. if there have been any threats since the initial incident,
 - c. whether the victim believes that the rifles and shotguns can be safely returned,
 - d. any other circumstances relevant to the return of the rifles and shotguns.

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15. *Reviews* the gathered information to determine if the rifles and shotguns should continue to be held or be returned.
16. If notified by a Pistol License Section Supervisor that the owners license has been reinstated:
 - a. *prepares* a brief narrative report outlining the investigation, *indicating* that Pistol License Section has concluded a pistol license investigation and is reinstating the owners license, *and*
 - b. *forwards* the following to the Patrol Division Domestic Incident Coordinator:
 - (1) narrative report,
 - (2) copy of internal correspondence received from Pistol License Section regarding the reinstatement of pistol license. [End of Procedure]
17. *Prepares* a brief narrative report outlining the investigation, including a recommendation as to whether the rifles and shotguns should be returned.
18. *Prepares* the following forms, if the rifles and shotguns will be returned:
 - a. PDCN Form 83, and
 - b. PDCN Form 110, Property Bureau Notice to Claimant Card.

**Patrol Division
Domestic Incident
Coordinator**

19. *Forwards* the following to the Patrol Division Domestic Incident Coordinator:
 - a. narrative report,
 - b. PDCN Form 83, if prepared,
 - c. PDCN Form 110, if prepared.
20. *Reviews* the narrative report and *confers* with the Precinct Domestic Incident Liaison Officer.
21. *Advises* the Precinct Domestic Incident Liaison Officer to *either*:
 - a. continue to hold the rifles and shotguns, *or*
 - b. return them to the owner.
22. *Forwards* the following forms to Property Bureau (PB) if the rifles and shotguns will be returned:
 - a. PDCN Form 83, and
 - b. PDCN Form 110.

**Precinct Domestic
Incident Liaison
Officer**

23. If the shotguns and rifles *will not* be returned, *notifies* Legal Bureau to initiate legal proceedings.
24. *Notifies* the following regarding the status of the rifles and shotguns:
 - a. victim, if one exists,
 - b. owner, only if rifles and shotguns will be returned.
25. *Notifies* PB to destroy firearms, rifles and shotguns in the following situations:
 - a. owner can not be located,

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Property Bureau
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- b. owner does not want rifles and shotguns returned,
- c. an investigation reveals a legal impediment still exists not to return the rifles and shotguns.

Note: The Liaison Officer should take into consideration if rifles and shotguns should continue to be held for reasons such as court orders, which *temporarily* prohibit the owner from possessing such rifles and shotguns.

26. *Maintains* written records of all actions taken regarding confiscated or voluntarily surrendered rifles and shotguns.

27. *Upon receipt* of PDCN Form 83 and PDCN Form 110:

- a. *mails* PDCN Form 110, return receipt requested, to the owner of the rifles and shotguns, and
- b. *files* PDCN Form 83.